

Appeal from decision of Wyoming State Office, Bureau of Land Management, dismissing protest against entitlement of successful drawee in simultaneous drawing for oil and gas lease.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

Where an attorney-in-fact or an agent does not sign the drawing card which is signed by the offeror, the showings as to the agent embodied in 43 CFR 3102.6-1 need not be submitted.

2. Oil and Gas Leases: Generally—Oil and Gas Leases: Attorneys-in-Fact or Agents

Appellant's charges in respect of filing of registration statements for compliance with securities laws go to question of relationships between filing service companies and their investors, and as such, are properly for consideration by Securities and Exchange Commission. Where they do not indicate noncompliance with oil and gas leasing statutes and regulations, such charges are not proper for consideration by the Department of the Interior, which has not been delegated responsibility for enforcement of securities laws.

APPEARANCES: Elias C. Bacil, Fremont, California, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Elias C. Bacil appeals from an October 28, 1977, decision of the Wyoming State Office, Bureau of Land Management (BLM), dismissing his

protest against the entitlement of Janet Lascola, whose drawing entry card for Parcel WY-245 was drawn first in a September 1977 simultaneous drawing, to an oil and gas lease.

Appellant argues that Lascola's drawing entry card was illegally filed by a broker who has failed to register with the Securities and Exchange Commission, thus violating the Securities Act of 1933, as amended, and rendering Lascola's entry card illegal at the moment of its being selected. In support of this proposition, appellant cites S.E.C. v. Max Wilson, Inc., No. C-77-133-M (D.N.M. June 15, 1977). Appellant further contends that:

Whenever the agent performs any act, using his authority to exercise his own discretion, without the specific instructions, or the direction of the client, * * * he becomes an AGENT-IN-FACT of the client, * * * and thus comes within the meaning of 43CFR 3102.6-1, requiring Separate Statements of Interest by both Offeror and Agent to be filed * * *.

In his protest to the BLM, appellant maintained that "I believe that the first card drawn does not bear [Lascola's] true address, and therefore, I question her actual existence." Appellant's allegations are unsupported by offerings of evidence on the address or actual existence of Lascola ^{1/} or on the actions of the leasing service appearing in the record, Bethal Capital, Inc., of Buffalo, New York, in filing her offer.

Since the signature on the back of Lascola's drawing entry card appears to be a facsimile, the BLM by letter of November 16, 1977, required Lascola to submit an affidavit explaining the circumstances of her signing the card. Such an affidavit was filed on December 1, 1977, with Lascola averring that: "It was my intention that the facsimile signature placed on the entry card was to be my true signature. The signature was placed on the card by my own hand."

[1] We note that use of a facsimile signature may meet the requirements of the regulations governing filings for simultaneous oil and gas drawings. See Robert C. Leary, 27 IBLA 296 (1976).

^{1/} In a letter of December 8, 1977, appellant admits that "Janet Lascola, 675 Delaware Ave., Buffalo, NY received copy of my letter dated Nov. 23, 1977 * * *."

Where an attorney-in-fact or an agent does not sign the drawing entry card, the provisions of 43 CFR 3102.6-1 are not invoked.

We reaffirm our earlier holdings that the burden is on the protestant to show justification for the disqualification of the successful drawee in a simultaneous oil and gas drawing. The protestant must offer competent proof of violations, not merely accusations. See Harry L. Matthews, 29 IBLA 240, 242 (1977); Georgette B. Lee and James W. McDade, 3 IBLA 172 (1971); D. E. Pack, 30 IBLA 230 (1977) (pending reconsideration). Since appellant has offered no such proof, we hold that the State Office properly dismissed appellant's protest.

[2] We considered the applicability of the Max Wilson judgment, cited by appellant, supra, in our decision in Virginia L. Jones, 34 IBLA 188 (1978), where we said:

Appellant also relies on SEC v. Max Wilson, Inc., et al., No. 77-133M (D.N.M. June 15, 1977), enjoining Max Wilson, Inc., from operating a leasing service until it filed a registration statement under the Securities Act of 1933. This case does not affect the instant proceeding. Appellant has presented no indication that [the leasing service in issue] is under a similar injunction.

34 IBLA 193. Appellant's charges in respect of the filing of registration statements for compliance with the securities laws go to the question of the relationships between filing service companies and their investors, and as such, are properly for consideration by the Securities and Exchange Commission. Where they do not indicate noncompliance with the oil and gas leasing statutes and regulations, such charges are not proper for consideration by the Department of the Interior, which has not been delegated responsibility for enforcement of the securities laws.

Our holding today merely affirms the BLM decision rejecting appellant Bacil's protest. It does not purport to pass otherwise on the acceptability of the Lascola offer.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman
Administrative Judge

We concur.

Joseph W. Goss
Administrative Judge

Martin Ritvo
Administrative Judge

